

3 1761 118937192

CAZON
TO
-85 A73

Government
Publications



CA 2 DN
HQ
-85 A 73

ASSURED HOUSING FOR ONTARIO

Reforms to Rent Review



Ministry
of
Housing
Ontario Alvin Curling, Minister

CAS 173

REFORMS

TO

RENT REVIEW

MINISTRY OF HOUSING

DECEMBER, 1985



Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761118937192>

CONTENTS

	Page
Introduction.....	1
The Policy Framework.....	3
The New Rent Review Policies.....	4
- The Purpose of Rent Review.....	4
- The Application of Rent Review.....	4
- The Rent Review Guideline.....	4
- Maximum Legal Rents.....	5
- Illegal Rents.....	5
- Guideline Reduction Applications.....	5
- Rent Registry.....	5
- Treatment of Capital Costs.....	6
- The Elimination of Economic Loss.....	7
(a) Post 75.....	7
(b) Pre 76.....	8
- The Annual Allowance for Operating Cost Increases.....	9
- Costs-No-Longer-Borne for Refinancing.....	9
- Equalization of Unit Rents.....	10
The New Rent Review Process.....	11
- The Need for a Better System.....	11
- Non-Judicial Review - A Less Adversarial System.....	11
- A Code of Practice for Landlords and Tenants.....	12
- Clearly Defined Criteria.....	13
- Appeal Hearings.....	13
- Enforcements.....	14
The New Rent Review Organization.....	15
- Rent Review Advisory Committee.....	15
- The Rent Review Division.....	16
- The Rent Review Hearings Board.....	17
Economic Impact.....	18
- A Slowing of Rent Increases.....	18
- The Construction of New Rental Housing.....	19
- Better Maintenance.....	20
Refining the System.....	21
- The Legislative Process.....	21
- Ongoing Consultation.....	21
- Thom Commission.....	21
- A Commitment to the Future.....	22

INTRODUCTION

The Government of Ontario believes that basic affordable housing is achievable for all Ontarians. Except for isolated periods, Ontario, historically, has had available an adequate supply of high quality, affordable housing. This Province has, perhaps, the best housing stock in the world extending from the highest income levels through to basic shelter for those without the means to provide for themselves. We have no slums and few unsafe buildings.

Unfortunately, this situation can no longer be taken for granted. The ownership market is providing an ample supply of housing which will continue to satisfy the needs of over 2/3 of the province's population. However, the rental market is near a crisis point. Firm and forceful action is required on a number of fronts to ensure that the third of our population who depend on this type of housing continue to enjoy a sufficient supply of quality rental accommodation. During recent years, escalating interest rates, rapidly rising costs and a heavy burden of regulations have combined with continued migration to urban centres, higher unemployment and reduced government involvement in providing low income housing to produce a serious problem.

The Province's new policy, Assured Housing for Ontario, tackles this issue head on and establishes new directions for solving these emerging problems quickly and effectively. The policy aggressively attacks the problem of insufficient affordable housing by producing 43,000 new units for those of modest means over the next five years. It provides for the repair and maintenance of another 30,000 lower priced housing units (both rental and ownership) to keep in the market good housing that might otherwise be lost. It stimulates the construction of a further 5,000 units of rental housing for low and moderate income tenants and it encourages creation of a further 6,000 affordable units through conversions from other uses.

Government stimulation in itself is not enough. There is mounting evidence that the present rental market is poorly structured to meet the challenges of the next decade. The chronically low vacancy rates (less than 1% in virtually all major centres), the declining standard of maintenance in some buildings, the lack of capital improvement in others, the increasing acrimony between tenants and landlords, and the virtual collapse of new rental construction all point to the need for major reform.

The establishment of a permanent and fair system of rent review is the cornerstone of this reform. Previous governments maintained in place a flawed and patchwork system of rent review.

The current system of rent review offers little protection to tenants whose landlords ignore the law, discourages regular and prudent building maintenance, provides no incentive for new rental construction, is grossly unfair to some building owners and many tenants, generates hostility and conflict between tenants and landlords and is time consuming, arbitrary and slow.

The present government cannot accept that the solution to these problems is to simply deny the protection of rent review to tenants of buildings built since 1975 nor allow tenants and landlords of older stock to continue to suffer under an inadequate and half-hearted system of rent review.

The Government is committed to developing an effective, fair and permanent system of rent review for all tenants and landlords in the province. Since taking office in June the new government has undertaken an exhaustive analysis of the issues of rent review and has consulted broadly with all interest groups. The policy framework outlined here is designed to begin a process of reform which will involve the producers and consumers of rental housing in shaping our exciting and dynamic future.

THE POLICY FRAMEWORK

The reform of rent review cannot be accomplished by simply passing new legislation. The first requirement is the development of a broad policy framework which is fair, and seen to be fair, by both tenants and landlords. The new policy achieves this first step. The Residential Rent Regulation Act to be introduced this autumn will give legislative force to this policy and will set the scene for the next important steps. The legislature will be asked to consider and ultimately pass this bill over the next few months.

In the interim a newly-formed Rent Review Advisory Committee will be asked to build on the legislation. This Committee consists of knowledgeable leaders representative of the concerns of both tenants and landlords. The major landlord and tenant groups have endorsed participation on this Committee. The Committee will deal with hundreds of issues which will have to be resolved in the form of further legislation, regulations, or administrative directions necessary to put in place the fair and reasonable rent review system that will be established by the Act.

This process is an illustration of this Government's commitment to open government. The essentials of the new policy will be established by the Government in the legislation and these essentials will be fully debated in the Legislature. The Government will be requesting that the bill be referred to a standing committee for thorough debate and will seek opportunities for full public input at that time.

While this activity is underway the Rent Review Advisory Committee will be examining the myriad details of implementing the new system. It, too, will look for public input and its conclusions will be open to public scrutiny.

By asking landlords and tenants to develop a consensus, or as near to a consensus as possible, the unnecessarily adversarial climate inherent in the present system will be replaced by a new climate that recognizes the legitimate interests of both.

The Government is fully prepared to accept amendments and changes in the proposed process if they help achieve a fairer, more reasonable and less onerous system.

This process also demonstrates the Government's faith that conflicting interests can be reconciled if a reasonable and fair framework is provided. The extreme views that the building industry cannot prosper in a regulated market, or, alternatively, that private sector landlords will never behave reasonably to their tenants are being rejected. The new rent review system will provide secure protection for tenants, will recognize the need for better maintenance of existing stock, and will restore a climate in which the private sector can once again build with confidence.

THE NEW RENT REVIEW POLICIES

The Purpose of Rent Review

Regulation of the rental housing market is essential to protect present and future tenants from unjustifiable and unfair rent increases and to eliminate the fear and potential of arbitrary economic eviction. The system of regulation must provide such protection for all private rental premises and must be structured so as to permit a fair and reasonable return on the equity invested by efficient owners and managers of rental units.

Rent regulation should not artificially depress rents to below economic levels, nor should it permit excessive rent increases due to abnormal market conditions. It must be recognized that any system of regulation which does not establish rents which are fair to both tenants and investors is doomed to failure.

Ultimately, rent regulation should promote improved relations between landlords and tenants and contribute to the social and economic well-being of our society.

The Application of Rent Review

The new system of rent review will continue to apply to all units previously covered by the Residential Tenancies Act. In addition, rent review will be extended to apply to those rental units first occupied after January 1, 1976 and those rental units which rent for more than \$750 per month. (Accommodation provided by educational institutions, hospitals, nursing homes, homes for the aged, and non-profit housing corporations, religious institutions, among others, will continue to be excluded from rent review). Loopholes such as illegitimate apartment-hotels, used to avoid rent regulation will be closed.

While roomers and boarders are not presently covered by rent review, some form of protection is required to ensure that these residential units, our most affordable stock, remain properly maintained and available to low income people in Ontario. A task force is being established to examine the alternatives available for improving protections for roomers and boarders.

The Rent Review Guideline

From August 1, 1985 and at least to August 1, 1986 owners of rental buildings may increase rents by a maximum of 4% without applying for rent review. Given the prospect of continued low inflation the 4% guideline will probably be in force for all of 1986. Thereafter the rent guideline will be set annually based on a formula.

The formula will be such that the guideline level will increase if inflation increases and decrease as inflation decreases. However, the guideline will increase and decrease at a rate slower than the change in the rate of inflation. This reform will ensure that the guideline is responsive to changing economic circumstances, while providing protection to both landlords and tenants. The Rent Review Advisory Committee will examine a variety of guideline adjustment formulae and make a recommendation to the Minister on its findings.

Maximum Legal Rents

Effective August 1, 1985 every rental unit in Ontario will have a maximum legal rent. That rent will increase annually by the guideline rate unless an application is made by a tenant to reduce an increase below the guideline rate, or by a landlord for an increase higher than the guideline rate.

The establishment of a legal rent eliminates one of the most unjust aspects of the present system of rent review. Some landlords have foregone annual rent increases at the guideline rate because they know their current tenants are experiencing financial difficulties. This has been particularly prevalent in small buildings across the Province. When their tenants vacate the unit or when their tenant's circumstances improve these landlords have discovered that their fair treatment of their tenants now locks them into permanently depressed rents. By allowing the maximum legal rents to increase even when actual rents are not increased, landlords will be able to restore their economic position.

Illegal Rents

Many tenants in Ontario are presently paying illegal rents. In some cases these rents are not known to be illegal and in others, tenants are aware they have the right to apply for rent reduction.

Under this policy a strong stance is taken against illegal rents. First, charging illegal rents will now be an offence and subject to fines. Second, we will employ compliance officers to investigate complaints. Third, we will establish a rent registry which will provide an opportunity for a tenant or landlord to ascertain the legal maximum rent for any rental unit. This will enable tenants to determine if they are being charged illegal rents and apply for a reduction in rents.

Guideline Reduction Applications

The new policy continues the practice of permitting tenants to apply to rent review to challenge rent increases within the guideline in certain instances. Where there has been a decline in building maintenance, or where a unit is renting for significantly more than comparable units in the same building or area, a tenant will continue to have the right to challenge any rent increase.

Rent Registry

The Government is establishing a registry of the legal maximum rents for all residential rental units in the Province. The rents registered will be based on rents in effect July 1, 1985. Thereafter the legal maximum rent for each unit will be kept and be available to any tenant who wishes to know the legal rent for any unit. The registry will be accessible province-wide by telephone and through a network of rent review offices.

Once a unit's rent is registered, tenants will have the opportunity to appeal the initial registered rent on the grounds that it is illegal. A

tenant may use rents charged as far back as August 1, 1975 to support a contention that a registered rent is illegal and should be reduced. Unless a landlord can demonstrate that based on earlier rents charged, the registered rent is legal, the registered rent will be reduced to the legal limit. Rent rebates ordered as a result of a successful challenge of registered rents will be limited by the Statute of Limitations and any further limitations may be recommended by the Advisory Committee.

The mechanics of the registry are being developed and will be reviewed by the Rent Review Advisory Committee. It is anticipated that registration of large and medium sized buildings will start by June of 1986. Once units in these buildings are registered, the operation of the registry will be reviewed and adjusted as necessary. At that point registration of smaller buildings (6 or fewer units) will begin.

Treatment of Capital Costs

Under the current system of rent review, the treatment of capital expenditures gives rise to a number of problems for both tenants and landlords. Of major concern is the deterioration of existing rental stock and the loss of affordable units renovated to luxury use.

The deterioration of existing stock, especially of older low rise buildings, has been extensively documented as a large and growing problem. Both tenants and landlords have a mutual interest in preserving the quality of this accommodation.

Landlords see several difficulties with the current rent review rules. First, there is considerable uncertainty at the time of making a capital improvement or repair. The landlord cannot find out, with certainty, the rent review treatment that will be given to his expense. He does not know the amount that will be allowed, the write-off period used for the cost recovery or the interest rate that will be accepted. He must spend first, and then find out what he will get back in return.

Second, because awards are made after the expenditure has been made, the landlord must bear the cost of financing the expenditure until the rent increase can be collected.

Third, the return on invested equity given by rent review is considered inadequate by many landlords. The rate is essentially the same as that of a lending institution. However, this does not take into account the investment risk and management effort required of landlords.

Tenants also have concerns over rent review treatment of capital costs. For one thing, they want a higher standard of verification of these costs. In addition, they do not want to pay several times for the same expenditure - which results from the continuation of the rent awarded after the write off period has ended. Importantly, they do not want to suffer the deterioration in services from expenditures not made.

The most serious problem faced by tenants occurs in cases of extensive renovations. Such expenditures are often necessary to extend the useful life of a building but, unfortunately, may involve displacement of tenants while work is being done. Clearly, such extensive work should be done only when building conditions require.

Unfortunately, rent review rules have provided an excessive inducement to luxury renovations. The \$750 exemption provided a major incentive to transfer affordable stock to the high end of market. In addition, rent review guidelines have operated so as to permit a market rent after renovation, again encouraging luxury conversion.

Landlords defend a special treatment of extensive renovations because of the major management effort and loss of revenue that often accompanies the preservation of buildings in need of major repair. So while renovation incentives need not be excessive, they must be adequate to provide for the upgrading of our rental stock.

Given the wide range of both mutual and conflicting interests between tenants and landlords on capital expenditures, it is being referred to the Rent Review Advisory Committee for discussion and recommendation. Rules on this that both tenants and landlords agree to will be much better than those created by Government alone.

The Elimination Of Economic Loss

a) For Buildings Built Since 1975:

The economics of the construction of rental housing are such that almost without exception initial rents are insufficient to cover the operating costs of a new building. It is usual for a building to take from five to eight years after first occupancy to break even (see Economic Impact Section). It normally takes longer than this for the revenue from a rental building to reach "economic rents". Economic rents reflect the level of revenue a building must produce to provide an adequate return on invested equity.

For some of the buildings not yet included under rent review, it has been possible for rents to rise above the level of economic rents. In these cases, building owners will be earning more than an adequate return on investment. If rent review were not introduced for these buildings, rents would continue to climb to whatever levels the market would permit. Since the supply of rental housing is very tight in Ontario (particularly in major urban centres) it is probable that market rents would be established at well above economic rent levels.

The Government is including buildings built since 1975 under the new rent review system. This means that owners of new rental units will, in the future, not be permitted to charge more than economic rents regardless of market conditions.

In the transition of bringing buildings built since 1975 from outside rent review into a regulated market, provisions must be made for buildings which are presently renting at a loss or below economic levels. If the current rent review rules were used during this period, significant rent increases (as high as 20%) would occur in 1986 or 1987. Such rent increases are unacceptable; therefore, formulae have been developed which will phase in economic rent levels over a period of time if the market permits such rents. These formulae will be examined by the Rent Review Advisory Committee.

An independent analysis of the maximum rent increases which could occur under these formulae has been conducted for the Government by the firm of Price Waterhouse. The economic impact section of this paper contains the findings. Essentially, the study finds that rents in post-1975 buildings will rise more slowly under the proposed rules for elimination of economic loss than they would if the current rules were extended. Ultimately, the maximum level of rents would be slightly higher in post-1975 units. However, the study also found that if there is a higher probability of new buildings being constructed under the new system, it is not likely the market will permit the charging of the maximum rents.

The provisions for the elimination of economic loss are important to both tenants and the building industry. These provisions will ensure that new rental buildings can be constructed by the private sector to reduce the scarcity of rental housing. They also ensure that buildings which come under rent review can continue to be maintained at an adequate level.

b) Pre 1976 Buildings

When Rent Review was first introduced in 1975, it locked buildings into rent levels prevailing at that time, and for most buildings the levels reflected the market value of those rental units. Because the rent review system has allowed rent increases on a cost pass-through basis for maintenance and operating costs, the current rent levels for most pre-76 buildings provide a reasonable return to the investor.

However, a number of mostly, but not exclusively, smaller buildings were, in 1975, charging rents well below then prevailing market rents for a variety of reasons. Typically the owners of these smaller buildings bought them with their savings and personal earnings and have maintained them through "sweat equity". Over the years of rent review these buildings have been caught in an unfair and deteriorating situation.

Because the initial rents were depressed and the allowable annual increases were calculated as a percentage of rents, they are renting at a position farther below market rates than they were in 1975. This has produced an unfair hardship on building owners caught in this position and has in many instances produced a new level of working poor - people who are forced to work long hours just to break even. These people, who have invested in Ontario's future, have lost much of the value of their investments, cannot sell their buildings for what would be deemed a fair price and have no hope of retirement income from their labours.

The Government is committed to alleviating those situations where chronically depressed units are evident. Our consultations during the past few months identified many of these buildings. We have found that almost 80% of the tenants in these buildings can well afford to pay rents closer to that paid by others in similar accommodation covered by rent review.

In the interest of fairness and equity, the Government will provide for relief of hardship in these instances through a mechanism to be developed by the Rent Review Advisory Committee.

However, the Government recognizes that about 20% of the tenants in these buildings can ill afford the rents they're currently paying and certainly cannot afford any increases that might be taken to provide a fairer rent structure. The Government of Ontario has established an Interministerial Committee on Affordability which will, during the next four to five months, and in conjunction with the Rent Review Advisory Committee, examine a way to ensure that low-income tenants do not bear any cost of providing relief for buildings with chronically depressed rents. Once this mechanism is identified and budgetary provision made, buildings with chronically depressed rents will be allowed to rise to fair and reasonable market rates within the framework of our rent review system.

This commitment is essential to create a climate of reasonableness and fairness necessary to reassure both present and future investors in residential rental properties.

Annual Allowance for Operating Cost Increases

One of the most pervasive problems with the present system of rent review is the evaluation of operating cost increases as part of the process of computing allowable rent increases.

Under the present system, there must be a full examination of receipts for all operating expenditures. The process occupies the majority of the time taken at rent review hearings. It also provides an incentive for landlords to expend large sums in a year before a rent review hearing and to spend very little on maintenance in other years. It leads to costly record-keeping, contentious landlord-tenant relations and is an invitation to fraudulent behaviour.

The Residential Rent Regulation Act will eliminate most of these problems. Under the new system a fixed allowance will be provided for increases in operating expenses as part of the computation of rent increases under rent review. This allowance will be sufficient to maintain a well-managed building. The allowance will increase and decrease in direct proportion to the guideline rate. The Rent Review Advisory Committee will be asked to recommend appropriate allowances for new buildings and older buildings. It is anticipated that the initial allowance for new buildings will be approximately 3% of rents. This figure will probably be slightly higher for older buildings which require more maintenance.

In addition, provision has been made for extraordinary cost increases which are beyond the control of landlords, such as major tax increases or substantial increases in utility costs.

Costs No Longer Borne for Refinancing

Under the present system of rent review, landlords could apply for increases in rents due to higher interest rates charged on mortgages.

No mechanism exists to permit a reduction of rents should interest rates fall and the mortgage is refinanced at lower levels.

The Residential Rent Regulation Act will provide for a review of rent levels in this situation. Specifically, any financing rates that have been used as justification at rent review for higher rents will be subject to rent reduction. The Rent Review Advisory Committee will be asked to examine ways of alerting tenants of their rights to a costs-no-longer-borne rent review.

Equalization Of Unit Rents

The 1982 legislation which limited the pass-through of losses due to the sale of a rental building also suspended the operation of the equalization of rents under whole building review. The principle of equalization is that equal rents should be charged for units of equal value. Thus, identical two-bedroom units in the same building should rent for the same amount.

Former rent review processes not only did not reduce the differences in rent on similar units, they worked to increase these differences. This occurred because all units received the same percentage rent increase. Thus, an 8 per cent increase on a \$500 unit is \$40, while the rent increase on a \$400 unit is only \$32.

This process will be changed to permit a gradual achievement of rent equalization over a five year period.

This is a fair and equitable process that will restore equalization but will not impose undue hardship on any individual tenant.

THE NEW RENT REVIEW PROCESS

The Need For A Better System

Under the existing rent review system, most rent review applications are dealt with through a hearing process. This has been criticized by both landlords and tenants, as well as the Thom Commission in its Phase I report. The system which is adversarial in nature, is not one that encourages harmonious landlord/tenant relationships. A hearing, in which both parties appear before a Commission to present their case, and where evidence is heard in a court-like setting, seldom fosters co-operation and understanding.

The complete hearing process, from the time an application is submitted until an Order is made, tends to be very lengthy. It can be many months, and quite often years, before a decision is rendered as an Order of the Commission. In the meantime, both tenants and landlords suffer - sometimes just out of confusion and uncertainty as to the outcome. In other cases there may be genuine hardship.

There are other problems with the current system which stem from the legislation. The Residential Tenancies Act, either through the Act itself or in regulations, does not provide specific and authoritative rules for rent determination. The Residential Tenancy Commission which administers the Act has attempted to overcome this problem by developing interpretive guidelines for use by Commissioners. However, the lack of clear legislation and the fact that the Commissioners are not bound by the guidelines means that Commissioners have a great deal of discretion. This causes a lack of consistency in Commission Orders and adds to the uncertainty in the system.

The Residential Tenancies Act is viewed by many as permitting inadequate public input into the process. Both tenants and landlords have recommended to the Thom Commission the need for public representation, which was not provided for in the 1979 Act.

Other concerns raised during Phase I of the Thom Commission and during the Ministry's consultation process relate to the heavy burden the Act places on the Residential Tenancy Commission. The Commission, as a quasi-judicial body, should not have the responsibility for administrative, policy or enforcement functions. This violates commonly accepted principles of the separation of powers.

These concerns formed the basis for the changes to the system now being announced.

Non-Judicial Review - A Less Adversarial Process

Under the new system, the process which will initially be used to determine rents, other than those allowed by the established guideline, will be fundamentally different from the existing quasi-judicial system. This non-judicial process, which will be carried out within the Ministry proper, will be referred to as administrative review.

Administrative review will be a service-oriented, non-adversarial process of reviewing and resolving applications for rent review. Rent review advisors in the field will examine applications and supporting material, review the issues raised by landlords and tenants, and determine the rent increases or decreases according to clearly defined criteria. The process will be carried out in consultation with the landlords and tenants involved.

Clear, established timeframes will be laid out to reduce the time for and cost of rent review. Applications will be dealt with at local field offices where both tenants and landlords will have the opportunity to discuss their own, and each others' concerns with local staff.

The outcome of the administrative review process will be the new legal rent. Either landlords or tenants will be entitled upon payment of a filing fee to appeal the decision to the Rent Review Hearings Board for a formal quasi-judicial hearing and decision. If an appeal is filed, the initial decision will be effective until changed by the Rent Review Hearings Board.

This process will mean that a substantial majority of rent review applications will be dealt with outside the adversarial system characteristic of current rent review hearings. In support of the actual process of rent review, there will be complementary education and advisory services provided by local offices to ensure a maximum understanding and minimum confusion about rent review.

This service will include education - informing, explaining and creating a much better understanding of rent review. The public as well as those directly involved, will be more aware of the rights and responsibilities of both tenants and landlords.

The new approach to rent review, together with pro-active information, education and advisory services, will result in a more efficient and effective administration of the rent review process.

A Code Of Practice For Landlords and Tenants

The Government has found through its extensive consultation process that some landlords do not operate and maintain their buildings to a satisfactory level. Similarly, it is evident that some tenants cause damage and upset to both landlords and other tenants through thoughtless behaviour. While these concerns do not bear directly on the issue of rent review, they are major factors in determining relationships between some landlords and tenants. Clearly, poor landlord practices and unacceptable tenant behaviour are exceptions in Ontario, but they remain too prevalent. The Government is therefore encouraging industry organizations and tenant groups to develop a code of practice for themselves and their peers.

It is anticipated that these voluntary codes of practice will assist tenants and landlords to understand more clearly their rights and responsibilities. Many tenant and landlord organizations have suggested that better education of landlords, property managers, superintendents, and tenants is required to ensure the maintenance of good landlord and

tenant relationships. Over the next several months, the Ministry of Housing will work closely with these organizations to assist in the development of these codes of practice and will participate in developing education materials or processes that would be helpful.

Clearly Defined Criteria

To the greatest extent possible, uncertainty will be removed from the new processes applied at both the non-judicial and quasi-judicial levels of rent review. The Government's policies will be reflected in regulations to the Act and will be specific and authoritative.

Criteria used to determine rent review awards would include:

- a fixed allowance for operating cost increases;
- adjustment of incentives for capital expenditures to encourage needed maintenance and upgrading but discourage unnecessary spending;
- provision of costs-no-longer borne mechanisms for financing costs;
- restoration of limited rent equalization;
- a criterion of reasonableness. Where there is doubt concerning the reasonableness of an expenditure being considered in rent review, a data base of building performance will be utilized. Reasonableness will also be a factor in considering the efforts made by landlords to ensure that tenants have been consulted on capital expenditures and maintenance plans.

Both the rent review advisors and hearings commissioners will be required to follow the policies set out in the regulations.

Appeal Hearings

The new rent review process is based on the belief that decisions on rent increases can be made through a non-adversarial administrative process. It is anticipated that the vast majority of applications for rent review will be resolved at this level. In the event that a landlord or tenant wishes to appeal this decision, he or she may do so by filing an application with the Rent Review Hearings Board. This new organization will operate as a quasi-judicial agency and will render decisions based on consistent interpretation of rules on any cases referred to it.

Because the appeal process may result in higher or lower rent increases, the new policy provides that whole building appeals will require the support of at least 25% of the tenants in the building. In the event that fewer than 25% of the tenants appeal the decision, the Rent Review Hearings Board will consider the appeals to apply only to the units of the tenants who appeal.

A filing fee will be charged for an appeal of a decision made at administrative review. This decision will remain in force until an

Order of the Hearings Board is rendered. Such an order would provide for rolling back or increasing rents paid under the administrative review decision.

Enforcement

The new policy recognizes the need for stricter enforcement than presently exists. Under the new legislation, it will be an offence to charge an illegal rent.

Rent compliance officers will be employed to carry out audits to determine that rents being charged are in fact the legal rents. They will conduct audits on a sample basis and investigate complaints when a tenant discovers or suspects that the present rent being charged, or the rent being quoted for a unit on the market, is higher than the maximum legal rent. If a landlord fails to comply, procedures for prosecution will be initiated.

THE NEW RENT REVIEW ORGANIZATION

Rent Review Advisory Committee

Through the extensive consultation process it has become apparent that an ongoing review program would be required. The Minister of Housing has therefore established the Rent Review Advisory Committee.

The purpose of the committee is to provide input and advice to the Minister on all aspects related to the residential rental market.

The scope may include:

- rent review policy;
- landlord-tenant relations policy;
- rental housing production including equivalent production in condominium tax shelter projects, etc.;
- rental housing maintenance and renovation;
- finding land for rental housing;
- rent registry;
- financing of rental housing;
- planning of rental housing;
- how to help lower-income tenants;
- protections for roomers and boarders.

In the short-term, the Committee will be expected to:

- a) provide advice to the Minister regarding the large number of rent review issues which must be resolved within the framework of this policy;
- b) assist the Minister in creating positive tenant/landlord relationships;
- c) assist the Minister in the communication of the new rent review program;
- d) assist the Minister to implement the new rent review program.

The Advisory Committee will be composed of equal numbers of tenant and landlord representatives as well as senior staff of the Ministry of Housing. The Committee will be co-chaired by a tenant representative and a landlord representative.

Support services will be provided by the Ministry of Housing.

The Rent Review Division

The new rent review division will be an integral part of the Ministry of Housing.

It will be responsible for policy development, the administrative review process, public education and advice, adherence to legislation and regulations, and the maintenance of a registry of all residential rental buildings in the province listing the legal rent for each rental unit.

Rent Review Policy Branch

This branch will work on the development of policy recommendations, new legislation, regulations and policy and procedural guidelines for the Ministry and the Rent Review Hearings Board. It will also provide assistance to the Rent Review Advisory Committee.

The regulations will provide clearly defined criteria for the review of rental change applications through the Administrative Review process and by the Rent Review Hearings Board.

The branch will also examine issues arising from public input, and work with other staff on matters related to rental housing.

Field Services Branch

This organization will operate 22 field offices to provide province-wide access to information and assistance to existing and prospective tenants and landlords. It will also monitor adherence to the legislation and regulations.

The branch will disseminate information on the Rent Review Program and changes as they occur. It will carry out educational activities such as speaking to community groups and associations to ensure a better understanding of the rent review policies and processes. Landlord/tenant advice will be provided to assist individuals in the procedures involved in the rent review process.

A major function of the branch will involve a non-judicial process to review rental change applications. This service will maintain direct contact between tenants and landlords, speed up processing and greatly reduce the adversarial atmosphere typical of formal hearings. In cases where an order is not acceptable to either party, an application may be made to the Rent Review Hearings Board for a formal hearing and decision on rent increases.

Rent Registry Unit

The registry unit will maintain listings of all residential rental units in the province, including the legal rent. This information will be updated whenever rents are altered through approved guidelines, administrative review, or Rent Review Hearings Board decisions.

Access to information on unit rents will be obtained through the network of field offices.

Rent Review Hearings Board

The Residential Tenancy Commission is being renamed the Rent Review Hearings Board. The Board will consist of 22 commissioners and supporting staff. They will be based in five locations across the province and will hold hearings in local communities.

The Chairman of the Rent Review Hearings Board will report to the Minister of Housing for policy and administrative direction. The commissioners will conduct their hearings under The Statutory Powers Procedure Act and will be independent of Government. The only appeal of a decision of the Hearings Board will be on points of law through the courts.

ECONOMIC IMPACT

A Slowing of Rent Increases

The new system of rent review will provide for a reduction of the current guideline rate from 6% to 4% and include amendments to provide for the phase-in of financial losses and return on invested equity, over a five year period. Decreased mortgage interest rates and a lowered inflation rate have warranted a reduction in the guideline.

The Ministry contracted with Price Waterhouse to carry out a financial study regarding maximum rental increases for post-1975 buildings, under two basic sets of conditions:

- a) the existing rules for the computation of rent increases
- b) the proposed new rules (8%, 10%, 12% return factor).

The following is an extract from the Price Waterhouse Report.

"Results:

The models developed which compare projections based on current rent review regulations to projections based on proposed rent review regulations yield the following results:

- . potential rent increases are significantly greater in Year One under the projections of the current regulations than under the projections of the proposed regulations, assuming maximum allowable rent increases are obtained by a landlord for a building's local area;
- . under both the current and proposed rent review models, annual rent increases appear to level out at the rent review guideline rate of increase;
- . under the proposed rent review model, projected rates of return increase throughout the five year phase-in period; and
- . with the assumption that maximum rent increases are attainable, that is, a tight supply of rental accommodation, there appears to be a greater potential for significantly higher initial year rental increases under existing rent review rules, but that absolute rent levels may increase over time to slightly higher levels under the proposed rent review regulations.

A specific question posed by the Ministry was "If the proposed rules result in a higher propensity to build rental accommodation, will the probability of maximum rent increases be reduced?" If the rate of

return used in the proposed alternative proves adequate to generate investment in new buildings, it would appear self-evident that the additional supply should result in a lower probability of attaining maximum rent increases in the market."

There are several factors that lead the Government to conclude, that in respect to pre-1976 rental buildings, average rental increases will be less than in previous years.

Particularly:

- a) the introduction of the Rent Registry will help to control illegal rental increases;
- b) the guideline will be lowered to 4%, which is currently warranted by lower mortgage interest and general inflation rates; and
- c) our own review of the costs related to operating the Ontario Housing Corporation's portfolio of about 85,000 units.

The Construction of New Rental Housing

The requirement for additional rental supply has been documented in several studies. The new rent review system has been designed to create a climate of investor confidence in the private sector rental market, while at the same time extending tenant protection. The proposed new rules regarding the phased elimination of economic losses and return on invested equity, provides the opportunity for new construction. It is anticipated that the rent review proposals, along with the market incentive programs, will result in the production of up to 54,300 new rental units over the next five years. In addition, by encouraging an effective working partnership between the industry and government, about 30,000 existing units will be kept in the low income housing stock and over 30,000 new units are expected to be built by the private sector without any direct assistance by the end of 1990.

Thus a return of investor confidence in the residential real estate sector can be anticipated. Furthermore, by fostering a more stable housing supply and demand environment, greater price stability will be produced. A vital end product of increased rental production and preservation will be an improvement in the vacancy situation for all the major urban areas in Ontario.

Economists have long recognized the significant multiplier effect of the real estate sector in job creation and production value. The cumulative impact of the Assured Housing Strategy will be to create about 200,000 jobs and additional provincial revenue in the order of \$310 million over the next five years.

This will prove doubly effective in its stimulation of the economy given that most forecasters are currently predicting an economic slowdown in 1986.

Better Maintenance

Recent studies have indicated a major need for the rehabilitation of our rental housing stock. The new system of rent review will encourage better maintenance and rehabilitation. In addition, the Government will commit approximately \$100 million for upgrading and maintenance, to keep 30,000 units in the low income market that might otherwise be lost.

The Government will introduce legislation to provide greater protection against unnecessary demolition and other ways in which affordable stock is being eroded.

REFINING THE SYSTEM

The Legislative Process

The Residential Rent Regulation Act will be introduced in the late autumn of this year. In addition to embodying the Government's new rent review policies, it will enable implementation of the new system including among other things:

- a) Establishment of a new rent review organization,
- b) Establishment of a rent registry, and
- c) Establishment of a new rent review process.

The Government will request that after second reading, the bill be referred to a standing committee of the Legislature where suggestions will be received by public representatives including the Rent Review Advisory Committee.

Two other bills will also be presented to the House, which are intended to be passed in 1985, pending final passage of the first mentioned bill. These will be:

- a) A bill to extend the operation of the Residential Complexes Financing Costs Restraint Act for a further year, and
- b) A bill to lower the guideline from 6% to 4% for units now under rent review.

Ongoing Consultations

The new bill to be introduced will be enabling legislation to provide the legislative framework for the major changes to rent review. In addition to amendments which may be made during the legislative process, specific policies will be incorporated over time as regulations to the Act, for example, the mechanisms for adjusting the guideline in future, the formulae for the allowance for fixed operating cost increases and for the elimination of economic losses. The development of these policies will be undertaken by the Rent Review Advisory Committee assisted by Ministry staff. Thus implemented policies will have complete public input prior to being put forward as regulations to the Act and for proclamation by the Lieutenant Governor-in-Council as regulations to the Act.

Thom Commission

Much of the spirit and thrust of this new rent review policy has been inspired by the Phase I report of the Thom Commission released in the fall of 1984. Mr. Thom laboured long and hard examining the current rent review system. He recommended many fundamental changes which are included in this new policy.

Currently, Mr. Thom is completing Phase II hearings. In this phase Mr. Thom is examining the broad issues of rent review theory and

policy. We look forward to the Phase II report and its recommendations. These recommendations will be examined by the Minister and Rent Review Advisory Committee in order to further improve and refine the new system.

A Commitment to the Future

The new Rent Review system together with other housing and building initiatives sets new directions for Assured Housing for Ontario.

With these policies, the Provincial Government is stating its commitment to openness and to a process that is fair, just and comprehensive. These initiatives recognize that tenants have a right to security from unjustifiable rent increases and from the threat of economic eviction, and, moreover, a right to real protection through a fair, balanced and enforceable system of rent review.

For builders, landlords and investors, the system is equally fair and just. The Province recognizes the importance of a vital, growing rental construction industry and will encourage that industry's commitment to on-going building maintenance.

Furthermore, the establishment of the Rent Review Advisory Committee strengthens this commitment to openness, consultation and advice. The Government recognizes the need to establish a system that responds to new challenges and new conditions, and ensures that any proposal which impacts on tenants, landlords or builders is reviewed, understood and implemented in a manner that is fair and open.

The Government of Ontario believes that basic, affordable housing is achievable for all Ontarians. Openness and equitable treatment is also an achievable goal for all Ontarians whether tenants, landlords or builders. A new course in open dialogue has been set. A new commitment to consultation has been implemented. Both are part of Ontario's new, comprehensive policy to provide Assured Housing for Ontario.



